

REMARKS

A “Substitute Specification & Abstract” is submitted herewith to correct certain errors in translation, such as correction of “flame” to read “frame”, e.g. paragraph [0052], and to otherwise place the specification in better English form. The “Substitute Specification & Abstract” contains no new matter. In order that the examiner can satisfy himself in this regard, also submitted herewith is a marked up copy of the original specification and abstract showing the changes made in preparation of the “Substitute Specification & Abstract.”

The drawing replacement sheets for Figs. 1, 18 and 19 submitted herewith include amendments showing a controller 75 which, as taught in paragraph [0071] of the original specification (paragraph [0069] of the substitute specification), constitutes a component of the “pressure regulating means”. The drawing amendments are based on the teachings at paragraphs [0071] and [0083] of the original specification, corresponding to paragraphs [0069] and [0081] of the substitute specification, respectively.

Description corresponding to newly added process claims 20 and 21 is found at paragraphs [0093] and [0094] of the original specification, corresponding to paragraphs [0091] and [0092] of the substitute specification.

The restriction requirement is respectfully traversed. Contrary to examiner’s recollection of the telephone election on January 17, 2006, the file of the undersigned, specifically the report by the undersigned to the applicant, indicates that the election was made with traverse. The examiner’s remarks indicate an election of “the species drawn to a fuel cell system.” However, all of the originally presented claims were/are drawn to

“a fuel cell system.” Accordingly, the record is devoid of any reason justifying a requirement for election. A proper restriction requirement or requirement for election of species requires a statement of the reasons therefor by the examiner, lacking here, and therefor the requirement should be withdrawn. MPEP§808.01.

The rejection of claim 1 (? claims 1-6) for anticipation over Yang is respectfully traversed for the reason that the examiner has not properly construed means-plus-function language in applicants’ claims and consequently has not presented a *prima facie* case for anticipation. Applicants’ originally presented claims 1-12 contained, and claims 1-12 (excepting canceled claim 8) still contain, means-plus-function language, as sanctioned by the 6th paragraph of 35 USC 112. As noted in MPEP§2181, *In re Donaldson*, 29 USPQ2d 1845, (Fed. Cir. 1994) held:

Per our holding, the “broadest reasonable interpretation” that an examiner may give means-plus-function language is that statutorily mandated in paragraph six. Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination.

In applicants’ original specification (see paragraph [0071] or paragraph [0069] in the substitute specification) the “pressure regulating means” is defined as the combination of the valve 23 and the controller (see the embodiments of Figs. 1 and 18). In the context of the embodiment of Fig. 19, applicants’ specification defines the “pressure regulating means as the combination of valves 72a, 72b and 73 (see paragraph [0100] of the original specification or paragraph [0098] of the substitute specification).

In rejecting applicants’ claims the examiner refers to neither (1) the combination of a pressure regulating and a controller nor (2) the combination of valves 72a, 72b and

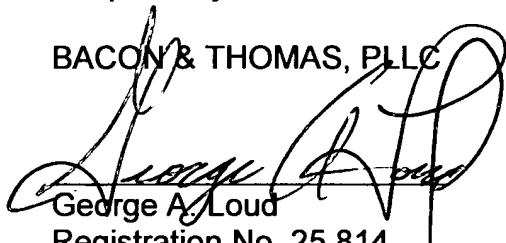
73 in Fig. 19, much less identify structure in Yang as equivalent thereto. For this reason the examiner has not stated a *prima facie* case for anticipation.

It should be noted that Yang has no equivalent of the combination of a regulating valve and a controller which operates the regulating valve responsive to, for example, a detected concentration or a timer. Further, nowhere does Yang disclose a pair of regulating valves in parallel and set at different pressures.

Reconsideration of the requirement for election and the rejection for anticipation is respectfully requested.

Respectfully submitted,

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